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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CERRO COPPER PRODUCTS,)
COMPANY,)
Plaintiff,)
vs.) No. 92-CV-204-WDS
MONSANTO COMPANY and)
MONSANTO CHEMICAL COMPANY,)
Defendant.)

VOLUME II
DEPOSITION OF SANDY SILVERSTEIN
Taken on behalf of Defendant
June 14, 1994

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#7
Silver? test

1 department monthly report.

2 Q Okay. And under item 12(b) for oils
3 lubes and solvents, oils and lubes would be the --
4 would that include the transformer fluid?

5 A I couldn't say for sure.

6 Q You don't know?

7 A I don't know. I don't know how the
8 purchasing department classified this. This is
9 more of an economic business report rather than a
10 technical report.

11 Q Okay. So you don't know how they
12 classified --

13 A I don't know how they classified.

14 Q -- these items?

15 A Okay. I don't know how they would
16 classify. For example, sulfuric acid is an oil,
17 luber, solvent. It appears to me that that is an
18 item -- for reasons that could be known only to the
19 purchasing department it is grouped in that manner.

20 Q Yesterday -- I am through with that
21 document, now. Yesterday when we were talking

22 about the dredging you, I believe, talked about you

23 thought two times that it occurred before you left

24 the plant?

25 A That is my best memory, at least

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1 two. One, probably two, possibly more.

2 Q Okay. Do you know if it -- whether
3 or not it occurred at times after you left the
4 plant in '71?

5 A I can't say for sure.

6 Q Okay. You wouldn't be surprised to
7 learn that it occurred in May of 1975, for example?

8 A I was not there at the time.

9 Q Right. That is why I'm not going to
10 bother showing you the document about it because
11 you weren't there; but, I mean, the document
12 clearly tells us that it was done in May of 1975, a
13 summary of operations? You wouldn't doubt that,
14 would you?

15 A No, I would not.

16 Q Okay. When the material was dredged
17 out of the Creek, was it ever tested with respect
18 to its content?

19 A I couldn't say for sure; I don't
20 recall.

21 Q You don't have any knowledge one way

22 or the other?

23 A I do not.

24 Q Do you know anybody who might have

25 been involved in something like that, who would

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1 have been more directly responsible for the
2 dredging operation?

3 A I couldn't say.

4 Q Okay.

5 A Mr. Goldenberg, who is the only one
6 I can think of, who when he was village engineer he
7 probably -- I assumed that he had arranged it. In
8 1975, you mentioned it was done when Cerro owned
9 land on both sides of the Creek. We then acquired
10 and occupied the east side of Dead Creek. And so
11 the only thing I can think of is anyone who may
12 have been involved in the 1975 dredging.

13 Q Okay. Okay. When the -- on the
14 annual inspection of the transformers, when the oil
15 was taken out and tested, do you know whether any
16 test was done for the presence of non-flammable
17 dielectric fluids?

18 A PCBs?

19 Q Yeah.

20 A Prior to my leaving in 1971, I can
21 state for a fact there was not because I did not

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22 A I believe that we contributed to a

23 portion of the metals that showed up.

24 Q A portion of the metals?

25 A A portion of the metals, most of the

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1 copper, and unknown portions of the lead, tin, and
2 other metals.

3 Q Where did you believe that the other
4 metals came from?

5 A I think it is quite possible, even
6 likely, that some of the metals were deposited from
7 the truck washing operations.

8 Q Oh, Harold Wagner?

9 A Or Wilbur and/or Wilbur Wagner.

10 Q Okay. What else? Where else do you
11 think the portions of metal came from?

12 A Well, I could conjecture a lot. I
13 mean --

14 Q Well, let me ask it this way: Why
15 do you believe, that you being Cerro, contributed
16 less than all of the metals?

17 A Because there are other sources of
18 material that are dumped into Dead Creek that came
19 from places other than our plant. It was rather
20 general knowledge at that time, for example, that
21 Harold Wagner was hauling waste for Olin in East

22 Alton, which is a processor of brass. And then any
23 other waste liquors that have been dumped or wasted
24 into Dead Creek would supply a significant
25 contribution of copper, zinc, tin, and others too.

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1 Q Which were components of brass?

2 A Yes, sir. There are plating
3 operations in several locations nearby in East St.
4 Louis, and I don't know for a fact that any of
5 their waste was dumped there, but this was a
6 general dumping area for many and it well could
7 have come from either them or sources outside.

8 Q In other words --

9 A Dead Creek was accessible to the
10 public by way of the roads nearby, it was open, and
11 that open dumping in Dead Creek and in the Dead
12 Creek area that was taking place.

13 Q Was that from the east side, or from
14 the road, or both? By east side I mean east side
15 of the creek, part of the time you owned it?

16 A I don't know. I would imagine that
17 anyone who had some waste material to get rid of
18 and was wondering where to dump it -- if he were in
19 downtown St. Louis, it was East St. Louis. They
20 would be headed down Route 3 and the first place
21 they get -- place without civilization would be

22 Queeney Avenue, and they just turn up and just a
23 short distance away there is an open area where
24 dumping was taking place in Leo Sauget's burning
25 pits and there was evidence of dumping having been

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1 done before and that sure seemed to be -- this
2 would be a likely place for them to get rid of
3 whatever they wanted to get rid of there.

4 Q There was evidence of dumping having
5 been done before?

6 A There was empty barrels. There was
7 an open field alongside of a road, there is --
8 there was -- there is nothing, but it appeared that
9 it was there.

10 Q You are talking about the land that
11 you acquired from Leo Sauget in 1968?

12 A Well, I'm talking about our land and
13 other people's land right nearby. I don't know who
14 owned it at the time, the area on the east side of
15 Dead Creek. The south side of New Queeney Avenue
16 there was -- all along Queeney Avenue on the
17 south -- we had put up a fence, but even then there
18 was some dumping between the road and our fence
19 from time to time.

20 Q You would see stuff dumped into the
21 pond outside your fence?

22 A The ditch.

23 Q Into the creek?

24 A The drain and channel between our

25 fence and the road -- stuff in the creek.

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1 Q Do you think it was possible for
2 anything dumped into Segment B of Dead Creek to
3 have gotten into Segment A?

4 A Prior to 1967?

5 Q Yes, sir.

6 A Yes, sir, it would have been
7 possible, a heavy rain storm the flow would go to
8 the north.

9 THE WITNESS: I need a break.

10 (Whereupon, at this point in the
11 proceedings a short recess was taken, after which
12 the following proceedings were conducted:)

13 Q (By Mr. Heineman) Okay. There
14 were -- you saw a lot of general dumping --

15 A Yes.

16 Q -- going on along the creek, both
17 before you had it fenced and afterwards?

18 A Before we had it fenced.

19 Q You said there was a time when you
20 put your own fence in and they would dump it?

21 A No, the south end when we acquired

22 the property, south of Old Queeney Avenue and New
23 Queeney Avenue, as soon as the New Queeney Avenue
24 was constructed, we put a fence up there.

25 Q Right, but it didn't go across?

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1 A Our property ended at Dead Creek and
2 Dead Creek was not our property. So people would
3 just dump it off the bridge -- off the bridge, off
4 the land adjacent there. I don't know where there
5 was -- there is no question there was a lot of
6 midnight dumping going on in that area.

7 Q In your own mind, can you trace
8 sources of metals to anybody else that you believe
9 would be potential PRPs for the metals?

10 MR. NOLAN: Other than what he just
11 testified to before?

12 MR. HEINEMAN: Yes.

13 A No, the only other thing I can think
14 of that would be a contribution is that the metals
15 from solutions that we were discharging at our
16 liquid in the early days, our discharge which had
17 some metals and was acidic in nature, would
18 normally, in the normal flow, would have gone
19 through this Dead Creek into the sewers, the
20 village sewer system, onto the Mississippi River,
21 except for the fact that when the discharge is

22 coming south from the north side of the track,
23 presumably from Monsanto, if that was acidic, if
24 that was alkaline, if that had a higher pH, it
25 would react and take those metals from the solution

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1 and deposited them as a sediment in Dead Creek, so
2 the metals would be a precipitant of uric liquid
3 discharge reacting with the high pH from another
4 source.

5 Q Are you talking about metals that
6 would be in elemental form and then entrained or
7 are you talking they would be in chemical
8 combination?

9 A Yes.

10 Q And therefore precipitated?

11 A That's right.

12 Q Do you have any reason to believe
13 that what was coming over from Monsanto was a base
14 as opposed to acid?

15 A I don't know what the material was
16 coming over there, as I said.

17 Q Well, you knew in 1981 what part of
18 it was, as of yesterday, there was no question in
19 your mind that PCBs were coming across there?

20 A Oh, yeah. But in the '40s and '50s,
21 there was a wide -- it's my understanding, there

22 was a wide variety of products made in Monsanto. I

23 don't know which products found its way into Dead

24 Creek and which had sewers from others which were

25 acidic, which was basically the only thing I know

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